

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 2:05-cr-44-F
)	
DARREN SMILEY)	

ORDER

This matter is before the Court on Defendant Darren Smiley's Motion for Judgment of Acquittal, or in the alternative, Motion for a New Trial (Doc. #41) filed on December 15, 2005. For the reasons stated below, the Defendant's motion is due to be DENIED.

MOTION FOR JUDGMENT OF ACQUITTAL

The test in considering a motion for judgment of acquittal is whether, viewing all evidence in the light most favorable to the government and drawing all reasonable inferences from the evidence and credibility choices in favor of the jury's verdict, a reasonable trier of fact could find that evidence established guilt beyond a reasonable doubt. *See United States v. O'Keefe*, 825 F.2d 314 (11th Cir. 1987). Having applied that test to the evidence presented in this case, the Court has determined that the evidence was sufficient to sustain a conviction as to Count I. Accordingly, this motion is DENIED.

MOTION FOR NEW TRIAL

Federal Rule of Criminal Procedure 33 states "[t]he court on motion of a defendant may grant a new trial to that defendant if required in the interests of justice." The decision whether to grant a new trial is within the sound discretion of the trial judge. *United States*

v. Champion, 813 F.2d 1154, 1170 (11th Cir. 1987). However, courts should exercise “great caution” when granting new trials and new trials only should be granted in “exceptional cases.” *United States v. Sieklocha*, 843 F.2d 485, 487 (11th Cir. 1988). In light of the aforementioned, the Court has considered Defendant’s arguments and finds that a new trial is not warranted. Accordingly, as nothing before the Court indicates that this case is “exceptional,” the Court finds that Defendant’s request for new trial is DENIED.

CONCLUSION

For the reasons stated above, the Defendant's Motion for Judgment of Acquittal, or in the alternative, Motion for New Trial (Doc. #41) is DENIED.

DONE this 23rd day of December, 2005.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE